

maintain the property in a decent, safe, and sanitary manner. When an escrow deposit is used, the tenant shall deposit into escrow, when the rent is due, the amount required by the lease. The escrow deposits must continue until the complaint is resolved through informal discussion or by the hearing officer or panel. The rent must be deposited in a federally insured financial institution or with a bonded independent agent. Failure to make timely escrow payments will result in a termination of the tenant grievance and appeals procedure and all sums will immediately become due and payable under the lease. Receipts of deposit must be available for examination by the borrower or the borrower's designee.

(g) *Failure to request a hearing.* If the applicant/tenant does not request a hearing within the time provided by paragraph (a) of this section, the borrower's disposition of the grievance or appeal will become final.

**§ 1944.557 Procedures governing the hearing.**

(a) Subject to paragraph (b) of this section, the hearing will be an informal proceeding before a hearing officer or hearing panel at which evidence may be received without regard to whether that evidence could be used in judicial proceedings.

(b) The hearing must be structured so as to provide the basic safeguards for both the borrower and the tenant, which must include:

(1) The right of both parties to be represented by counsel or another person(s) chosen as their representative.

(2) The right of the applicant/tenant to a private hearing unless a public hearing is requested.

(3) The right of the applicant/tenant to present oral or written evidence and arguments in support of their grievance or appeal and to refute the evidence of all witnesses on whose testimony or information the borrower relies.

(4) The right of the borrower to present oral or written evidence and arguments in support of the decision, to refute evidence relied upon by the applicant/tenant, and to confront and cross-examine all witnesses on whose

testimony or information the tenant relies.

(5) A decision based solely and exclusively upon the facts presented at the hearing.

(c) At the hearing the applicant/tenant must present evidence that he/she is entitled to the relief sought, and thereafter, the borrower shall present evidence showing the basis of its action or failure to act against that which the grievance or appeal is directed.

(d) The hearing officer or hearing panel shall require that the borrower, the applicant/tenant, counsel and other participants or spectators conduct themselves in an orderly manner. Failure to comply with the directions of the hearing officer or hearing panel to obtain order may result in exclusion from the proceedings, or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

(e) If the applicant/tenant (or his/her representative) fails to appear at a scheduled hearing, the hearing officer or hearing panel may make a determination to postpone the hearing for not to exceed five business days or may make a determination that the party has waived his or her right to a hearing under this subpart. Both the applicant/tenant and the borrower shall be notified of the determination of the hearing officer or hearing panel.

**§ 1944.558 Decision of the hearing officer or hearing panel.**

(a) The hearing officer or hearing panel shall prepare a written decision, together with the reasons therefor, within 10 calendar days after the hearing. The written decision must be specific as to the facts presented which were the basis upon which the decision was rendered. Copies of the decision must be sent to the borrower, the applicant/tenant, and the FmHA or its successor agency under Public Law 103-354 District Director.

(b) The decision of the hearing officer or hearing panel shall be binding upon the parties to the hearing unless the parties to the hearing are notified within 10 calendar days by the District Director that the decision violates FmHA or its successor agency under

**RHS, RBS, RUS, FSA, USDA**

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Public Law 103-354 regulations. The notification of the District Director will specify the FmHA or its successor agency under Public Law 103-354 regulation that the decision violates. The hearing officer or hearing panel shall amend the decision to comply with the regulation(s) within 10 days of receipt of the notice. (However, the decision of the hearing officer or hearing panel does not preclude either party's right thereafter to seek judicial relief through the courts.)

(c) Upon receipt of written notification from the District Director that the decision is in compliance with FmHA or its successor agency under Public Law 103-354 regulations, the decision is binding upon the borrower and tenant, and the borrower and tenant shall take the necessary action, or refrain from any actions, necessary to carry out the decision.

**§ 1944.559 Responsibilities of the FmHA or its successor agency under Public Law 103-354 District Director.**

(a) The District Director shall assure that a copy of this subpart is sent to each borrower with a requirement that the regulations be permanently posted in a conspicuous place for the information of tenants, such as the rental offices, laundry areas, activities rooms, or other places where it will be noticed by tenants. The District Director shall also require that the borrower maintain copies of this subpart at all times for inspection by the tenants and FmHA or its successor agency under Public Law 103-354 upon request. The District Director shall assure that where there is a concentration of non-English-speaking individuals, the regulation is made available in both English and the non-English concentration language.

(b) The District Director shall encourage the borrower and applicant/tenant to resolve grievances and appeals through informal discussion; however, upon receipt of a summary of informal discussion as required by § 1944.555(c) of this subpart, the District Director shall immediately review the summary to ascertain that the applicant/tenant has received a copy of the summary and a copy of the proceedings

to obtain a hearing, if matters could not be resolved through informal discussion.

**§§ 1944.560–1944.599 [Reserved]**

**§ 1944.600 OMB control number.**

The collections of information requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575-0046.

**EXHIBIT A TO SUBPART L OF PART 1944—  
SUMMARY OF MEETING**

Name and Address of Borrower:

\_\_\_\_\_  
\_\_\_\_\_

Name and Address of Project:

\_\_\_\_\_  
\_\_\_\_\_

Name and Address of Complainant:

\_\_\_\_\_  
\_\_\_\_\_

Specific Nature of Complaint:

\_\_\_\_\_  
\_\_\_\_\_

Date of Meeting:

Participants in Meeting:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Decision and Specific Reasons Therefore:

Borrower's Signature

I hereby acknowledge receipt of a copy of this summary and have been advised of my rights to use the attached procedures to obtain a hearing if I so choose.

Tenant's Acknowledgment:

Tenant's signature

*Procedures for Obtaining a Hearing:*

The following procedures may be used to obtain a hearing if you are not satisfied with the decision made as a result of our discussion on (date) \_\_\_\_\_.

1. *Request for a Hearing.* Send a written request for a hearing within ten days after you receive this notice to the project address shown in the summary. Indicate specifically: (1) The reason for your grievance or challenge of our proposed action, and (2) the action or relief you seek.

2. *Selection of Hearing Officer or Hearing Panel.* (Strike out paragraph not needed).

(a) As you probably already know, a Standing Hearing Panel is available to conduct the hearing.